

W125F
10.4 V1
Will

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION X

1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101



REPLY TO
ATTN OF: M/S 613

JUN 4 1985

William Wesselhoeft, Esq.
Ferguson & Burdell
2900 One Union Square
Seattle, Washington 98101

Re: Administrative Order No. 1085-06-02-106
Time Oil Company

Dear Mr. Wesselhoeft:

Enclosed is an Administrative Order issued to Time Oil Company pursuant to Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9606. The Order directs Time Oil to undertake certain measures to clean up hazardous substances from property it possesses near the South Tacoma Channel in Tacoma, Washington.

As specified in paragraph 51 of the Order, Time Oil must indicate its acceptance or rejection of the terms of the Order within seven days from its issuance. Within this same seven-day period Time Oil may confer with EPA concerning the requirements of this Order, as provided in paragraph 52. The company should follow the procedures specified in that paragraph in requesting such a conference.

The U.S. Environmental Protection Agency looks forward to Time Oil's compliance with the terms of this Order.

Sincerely,

Charles E. Findley
Charles E. Findley
Director, Hazardous Waste
Division

Enclosure

cc: Charles Douthwaite, Esq.
State of Washington Department of Ecology



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

IN THE MATTER OF:)
TIME OIL COMPANY) No. 1085-06-02-106
Proceedings Under Section 106(a)) ADMINISTRATIVE ORDER
of the Comprehensive Environmental)
Response, Compensation and Liability)
Act, 42 U.S.C. 9606(a)(1980))
SITE: South Tacoma Channel - Well 12A)

JURISDICTION

1. This Order is issued pursuant to the authority vested in the President of the United States by section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §9606(a), which authority has been delegated to the Administrator of the United States Environmental Protection Agency (EPA) on August 14, 1981, by Executive Order 12316, 46 Fed. Reg. 42237. This authority has been further delegated to the Assistant Administrator for Solid Waste and Emergency Response and the Regional Administrators by EPA Delegation Nos. 14-14 and 14-14A, and to the Director, Hazardous Waste Division, EPA Region 10.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2
3
4
5
6
7
8

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 4. Burlington Northern Inc. owns a railroad spur located adjacent to
2 the Time Oil facility at the Site. The spur was constructed in 1982 so that
3 bulk oil could be delivered to Time Oil by tanker car.

4 5. Fleetline Automotive, Inc. operates an automotive repair facility at
5 the Site.

6 6. B & W Investment Company owns the property at which Fleetline
7 Automotive, Inc. operates its repair facility.

8 7. Time Oil Company, Burlington Northern Inc., Fleetline Automotive,
9 Inc. and B & W Investment Company are "persons" as defined at section 101(21)
10 of CERCLA.

11 8. In September 1981, chlorinated organic solvents were detected in the
12 City of Tacoma drinking water well known as Well 12A. Well 12A is depicted on
13 the diagram that is Attachment 1 to this order. Well 12A is one of thirteen
14 wells used by the city to meet peak summer and emergency water demands. Soon
15 after detection of the solvents at the well, the city removed Well 12A from
16 service.

17 9. In April 1982, EPA initiated a remedial investigation to determine
18 the type and extent of the contamination in the groundwater that supplies Well
19 12A, and to locate the source(s) of such contamination. Analysis of the water
20 at Well 12A showed the presence of contaminants as follows:

21 1, 1, 2, 2 - tetrachloroethane	17 to 3000 ppb
22 1, 2 - (trans)dichloroethylene	30 to 100 ppb
23 Trichloroethylene	54 to 130 ppb
24 Tetrachloroethylene	1.6 to 5.4 ppb

1 To determine the source or sources of these contaminants, eleven monitoring
2 wells were placed in the vicinity of Well 12A. Analysis of the groundwater
3 elevations in the wells indicated that the natural groundwater flow
4 direction was from west to east with a relatively flat gradient and
5 therefore, a low flow velocity. The remedial investigation also determined
6 that the major source of contamination was generally northeast of Well 12A,
7 although a specific source was not identified. During times when the City
8 of Tacoma wells in the area are not operating, the contaminant plume moves
9 slowly away from the city wells. However, under the influence of pumping
10 action when the city wells are operating, the natural gradient is reversed
11 and contamination is drawn toward the operating wells. Analysis of the
12 groundwater flow also indicated that pumping from Well 12A could draw the
13 contaminant plume in the groundwater to that well, even when other wells in
14 the area were operating, so that continued operation of Well 12A would
15 provide a barrier to the spread of contamination and protect the rest of the
16 wellfield.

17 10. To safeguard the wellfield in the vicinity of Well 12A, EPA in
18 January 1983 authorized a feasibility study to determine a cost-effective
19 system to continue pumping water from Well 12A and to remove the
20 contaminants present in that water. Construction of a set of five treatment
21 towers, through which the water was passed and the solvents removed through
22 an evaporative process, was determined by EPA to be the appropriate interim
23 remedial measure. Construction of those towers began in March 1983. The
24 towers were placed in operation in July 1983. The towers have been
25
26
27

1 successful in removing contaminants from the water produced at Well 12A to
2 levels consistent with Federal and State drinking water standards.

3 11. Since the April 1982 remedial investigation did not identify any
4 specific sources of the contaminants found at Well 12A, in December 1982 and
5 May 1983 EPA authorized supplemental remedial investigations whose specific
6 purpose was to locate the sources of contamination. Four additional wells
7 were installed during those supplemental studies. Those wells, in addition
8 to the eleven wells installed during the initial investigation, were sampled
9 at several times between July and November 1983. One of the new wells was
10 located near the Time Oil, Burlington Northern, Fleetline Automotive and
11 B & W Investment Company property that constitutes the Site in this matter.
12 That well showed levels of trichloroethylene, 1, 1, 2, 2 - tetrachloroethane
13 and 1, 2, (trans)dichloroethylene in the low ppm range, which was
14 substantially higher than the levels found in the remaining fourteen wells.
15 Soil samples were subsequently taken from the area of the Burlington
16 Northern railroad spur at the Site. Those samples were found to contain
17 very high levels of trichloroethylene and 1, 1, 2, 2 - tetrachloroethane.
18 Further soil borings and wells on Burlington Northern and Time Oil property
19 showed very high concentrations of 1, 1, 2, 2 - tetrachloroethane and
20 tetrachloroethylene, with lower but still significant concentrations of
21 trichloroethylene and 1, 2 - (trans)dichloroethylene. Maximum
22 concentrations were found at the surface on the Burlington Northern railroad
23 spur, as follows:

24	1, 1, 2, 2 - tetrachloroethane	1,030,000 ug/kg
25	Tetrachloroethylene	1,030,000 ug/kg
26	Trichloroethylene	160,000 ug/kg
27	1, 2 - (trans)dichloroethylene	3,920 ug/kg

1 Soil samples taken from the property operated by Fleetline Automotive
2 revealed significant levels of 1, 1, 2, 2 - tetrachloroethane and
3 tetrachloroethylene, at concentrations of approximately 3,000 micrograms per
4 kilogram of soil.

5 12. The chemicals 1, 1, 2, 2 - tetrachloroethane, tetrachloroethylene
6 and trichloroethylene are known or suspected carcinogens, and 1, 2 -
7 (trans)dichloroethylene is known to be toxic. These chemicals are hazardous
8 substances within the meaning of CERCLA section 101(14). As determined
9 during the EPA remedial investigation and as summarized above, these
10 substances are present in significant amounts at the Site, and may endanger
11 the public if remedial action is not taken.

12 13. The public may be put at risk through two separate routes of
13 exposure. First, since the highest contaminations are found at or near the
14 soil surface, there is a risk that the public may come into direct contact
15 with the contaminants, and inhale or ingest the substances. The railroad
16 spur and most of the remainder of the Site is unfenced and open to the
17 public. Factory workers from nearby businesses cross the railroad tracks
18 and Time Oil property regularly, and railroad maintenance workers may be
19 exposed to contaminants on the Burlington Northern tracks and roadbed. A
20 second route by which the public may be endangered is through continued
21 contamination of the groundwater aquifer that underlies the Site, which has
22 been shown to be the same aquifer from which nearby city wells draw their
23 water. Contaminated water could be drawn into the city water system, and
24 consumed by the public, if the treatment system at Well 12A failed or if the
25 contaminants reached other wells in the vicinity despite the operation of
26 Well 12A. During periods of highest demand, the City of Tacoma relies upon
27

1 the well system, of which Well 12A is a part, for approximately 40 percent
2 of its water. Approximately 214,0000 people are served by City water.

3 14. Based on the above findings of fact, EPA has determined that the
4 release and threat of release of hazardous substances from the Site may
5 present an imminent and substantial endangerment to the public health,
6 welfare or the environment. EPA has also determined that in order to
7 protect public health, welfare and the environment, it is necessary that
8 remedial action be taken to abate the release or threat of release of
9 hazardous substances from the Site into the environment.

10 15. A remedial program, as described in paragraph 17 of this Order, is
11 required to remove contaminants from the soil and the groundwater at the
12 Site. This program of remedial action has been determined to be consistent
13 with the National Contingency Plan, 40 C.F.R. Part 300.

14 ORDER

15 16. NOW, THEREFORE, based on the foregoing Findings of Fact and
16 Conclusions of Law, it is hereby ORDERED as follows:

17 WORK TO BE PERFORMED

18 17. Immediately upon issuance of this Order, Time Oil shall prepare
19 plans and specifications and, following their approval by EPA, shall
20 implement such plans and specifications to carry out the following remedial
21 actions:

- 22 a. Drill and sample additional soil test borings on
23 Time Oil property to better define the extent of soil
24 contamination.

1 b. Remove any discolored, oily, fine-grained filter
2 cake and soils from the Time Oil property, plus
3 approximately one additional foot of undercut, and,
4 upon direction of EPA, remove other soils that soil
5 borings show to contain hazardous substances,
6 pollutants or contaminants.

7 c. Extract and treat the groundwater at the source
8 to remove volatile organics, followed by discharge of
9 a major portion of the treated extraction well
10 effluent into Commencement Bay via an existing storm
11 drain near the Site. The remaining treated extraction
12 well effluent is to be recharged to the aquifer at the
13 source area by means of a drain field to provide
14 flushing of contaminants in the soil column.

15 d. Install drain field piping in the parking lot
16 area on Time Oil property and cover with a permeable
17 material to protect the piping and prevent direct
18 human contact with underlying soils.

19 e. Pave or place soil cover on the portions of the
20 currently unpaved Time Oil parking lot not subject to
21 excavation and flushing, to prevent direct human
22 contact with soils that are currently exposed.

23 f. Transport and dispose all contaminated soils in
24 accordance with all applicable Federal and State
25 regulations, as specified in paragraph 21 below of
26 this Order.

1 g. Monitor groundwater consistent with provisions of
2 the Resource Conservation and Recovery Act (RCRA) and
3 with sufficient detail so as to be able to evaluate
4 the performance of the treatment system.

5 h. After two years of operation, evaluate the
6 effectiveness of the groundwater extraction and
7 treatment system in order to provide the information
8 necessary for EPA to determine the endpoint level of
9 treatment for the groundwater and soil at the source
10 area. The need for capping and other close-out
11 requirements will be determined by EPA at that time.

12 The remedial measures are being required to accomplish the following
13 objectives in a cost-effective manner: (1) removal from the soil of
14 contaminants that could migrate to the underlying aquifer; (2) removal of
15 soils which by their characteristics and contaminant levels would adversely
16 affect the reliability and effectiveness of an in-situ soil treatment
17 system; and (3) treatment of soils in-situ where such treatment would be
18 more cost-effective than its excavation and disposal away from the Site.

19 The work shall be coordinated with EPA and the State of Washington
20 Department of Ecology, and shall be compatible with remedial actions being
21 conducted at other portions of the Site. Any excavated areas shall be
22 backfilled with material that does not contain any hazardous substances as
23 that term is defined at section 101(14) of CERCLA.

1 18. Time Oil shall obtain EPA approval for elements of the remedial
2 program in accordance with the following schedule:

3			Deadlines for Submittals
4		EPA Action	or Actions (days
5	<u>Project Element</u>	<u>on Submissions</u>	following date of
			Order) <u>3 June 1985</u>
6	Health and Safety Plan	Review	30 days
7	Quality Assurance Plan	Approval	30 days
8	Sampling and Analytical Plan for Soil Borings	Approval	30 days
9	Report results of analyses of soil borings	Review	90 days
10	Plans and Specifications for removal and/or decontamination of soil at the Site, including designation of any facilities proposed to be used for off-site storage, treatment or disposal of hazardous wastes	Approval	120 days
11			
12			
13			
14	Plans and Specifications for construction, operation and maintenance of groundwater treatment system at the Site	Approval	120 days
15			
16			
17	Commencement of work on soil removal and/or decontamination	Review	150 days
18			
19	Progress reports to EPA on soil removal and/or decontamination	Review	First day each month during project
20			
21	Commencement of work on construction of groundwater treatment system	Review	190 days
22			
23	Progress reports to EPA on construction of groundwater treatment system	Review	First day of each month during con- struction project
24			
25	Groundwater treatment system placed in operation	Approval	250 days
26			
27	Soil removal and/or decontamination completed	Approval	280 days

1 DEED NOTICE, LAND USE AND CONVEYANCE OF TITLE

2 22. Time Oil shall not use any portion of the Site in any manner that
3 would adversely affect the integrity of any containment system, treatment
4 system or monitoring system installed pursuant to this Order or as a result of
5 response actions by other persons at the Site.

6 23. No conveyance of title, easement or other interest in any portion of
7 the Site owned by Time Oil shall be consummated without provision for
8 continued operation and maintenance of any containment system, treatment
9 system and monitoring system installed pursuant to this Order. Time Oil shall
10 notify EPA by registered mail, to the EPA Project Coordinator specified
11 pursuant to paragraph 28 below of this Order, at least ninety (90) days prior
12 to any conveyance of any interest in property that in whole or part is located
13 within the Site.

14 24. Within five days after issuance of this Order by EPA, Time Oil shall
15 cause to be recorded in the appropriate registry of deeds a notice and a copy
16 of this Order with the deed for its facility at the Site; and to verify to EPA
17 that such recording has been completed.

18 PERFORMANCE

19 25. All response work performed pursuant to this Order shall be under
20 the direction and supervision of a qualified professional engineer or
21 certified geologist with experience and expertise in hazardous waste site
22 cleanup. Time Oil shall notify EPA as to such engineer(s) or geologist(s),
23 and of any contractors and subcontractors to be used in carrying out the terms
24 of this Order, in advance of its involvement at the Site.

25 ON-SCENE COORDINATORS

26 26. EPA shall appoint an On-Scene Coordinator (OSC) who shall have the
27 authority specified in 40 C.F.R. Part 300 et seq., published in 47 Fed. Reg.
28 31180 (July 16, 1982).

ADMINISTRATIVE ORDER - Page 12 of 19

1 27. The OSC shall have at least the authority to: (1) take samples or
2 direct the type, quantity and location of samples to be taken by Time Oil; (2)
3 direct that work stop for a period not to exceed 72 hours whenever the OSC
4 determines that activities at the Site may create an immediate and significant
5 threat to public health or welfare or the environment; (3) observe, take
6 photographs and make such other reports on the progress of the work as the OSC
7 deems appropriate; (4) review records, files and documents relevant to the
8 Order; and (5) to make or authorize minor field modifications in the studies,
9 techniques, procedures or design utilized in carrying out this Order which are
10 necessary to the completion of the project. The absence of the OSC from the
11 Site shall not be cause for halting the work.

12 DESIGNATED PROJECT COORDINATORS

13 28. Within ten days of the effective date of this Order, EPA and Time
14 Oil shall each designate a Project Coordinator. Each Project Coordinator
15 shall be responsible for overseeing the implementation of this Consent Order.
16 The EPA Project Coordinator, who also may be appointed as the On-Scene
17 Coordinator, will be EPA's designated representative at the Site. To the
18 maximum extent possible, communications between Time Oil and EPA and all
19 documents, including reports, approvals, and other correspondence concerning
20 the activities performed pursuant to the terms and conditions of this Order,
21 shall be directed through the Project Coordinators.

22 29. EPA and Time Oil each have the right to change their respective
23 Project Coordinator. Such a change shall be accomplished by notifying the
24 other party in writing at least ten calendar days prior to the change.
25
26
27

ENDANGERMENT

30. In the event that the Director of the Hazardous Waste Division, EPA Region 10, determines that activities implementing or in non-compliance with this Order or any other circumstances or activities are creating an imminent and substantial endangerment to the health or welfare of the people on the Site or in the surrounding area or to the environment, the Director may order Time Oil to stop further implementation of this Consent Order or take affirmative measures as needed to abate the endangerment.

SAMPLING AND DATA/DOCUMENT AVAILABILITY

31. Time Oil shall make the results of all sampling and/or tests or other data generated by or for Time Oil in carrying out this Order available to EPA and shall submit these results in progress reports as described in paragraph 18 of this Order. EPA will make available to Time Oil, to the extent provided by the Freedom of Information Act, records it has of the non-exempt results of any sampling and/or tests or records containing data similarly generated by EPA.

32. At the request of EPA, Time Oil shall allow splits or duplicates samples to be taken by EPA and/or its authorized representatives, of any materials sampled by Time Oil in the course of implementing this Order. Time Oil shall notify EPA not later than 48 hours before commencement of any sample collection activity.

33. Time Oil may assert a confidentiality claim, if appropriate, covering part or all of the tangible records and similar items required or authorized by this Order, pursuant to 40 C.F.R. § 2.203(b). Such a claim shall be adequately substantiated when the claim is made. Analytical data shall not be claimed as confidential by Time Oil. Items determined by EPA to be confidential will be afforded the protection specified in 40 C.F.R. Part 2,

1 Subpart B. If no such claim accompanies the information when it is submitted
2 to or obtained by EPA, then EPA may make the item available to the public
3 without further notice to Time Oil.

4 RETENTION OF RECORDS

5 34. Time oil shall preserve, for a minimum of six (6) years after
6 completion of the work required by this Order, all records and documents in
7 possession or control of: its divisions, employees, agents, accountants,
8 contractors, or attorneys which relate in any way to the facility or Site,
9 despite any document retention policy to the contrary. After that six year
10 period, Time Oil shall notify EPA not later than 14 calendar days prior to
11 (but excluding) the date of destruction of any such items. Upon request by
12 EPA, Time Oil shall make available to EPA such records or true copies of any
13 such records.

14 MODIFICATIONS

15 35. At any time during the performance of the remedial action, EPA and
16 Time Oil may confer concerning modifications to the plans and specifications
17 for the remedial action or concerning modifications to the project schedule
18 set forth in paragraph 18 above of this Order.

19 36. Time Oil shall submit any request for such modifications to EPA for
20 approval. EPA shall indicate its approval or disapproval of such request
21 within ten (10) days after the request for modification is received.

22 37. EPA shall notify Time Oil in writing of any EPA proposal for
23 modifications to the plans and specifications or project schedule. Time Oil
24 shall thereafter comply with such modifications or, if it does not agree with
25 those modifications, the disagreement shall be addressed through the dispute
26 resolution procedures described in paragraph 38 below of this Order.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DISPUTE RESOLUTION

38. If Time Oil objects to any EPA notice of disapproval or decision made pursuant to this Order, Time Oil shall notify EPA in writing of its objections within fourteen (14) days from receipt of the notice or decision. EPA and Time Oil shall then have an additional fourteen (14) days from the receipt by EPA of the objections in which to resolve such objection by agreement. If agreement cannot be reached on any issue within this fourteen (14) day period, EPA shall provide a written statement of its decision to Time Oil.

OTHER ACTIONS

39. In the event that Time Oil fails to adhere to any requirement of this Order or, notwithstanding compliance with the terms of this Order, upon the occurrence or discovery of a situation as to which EPA would be empowered to take any further response action including but not limited to an immediate removal, planned removal, and/or interim remedial action; or in the event of a release or threatened release not addressed by this Order or upon the determination that action beyond the terms of this Order is necessary to abate releases or threatened releases from the Site to the environment; or under any other circumstances authorized by law, EPA may, after notice to Time Oil, institute federally-funded response activities and subsequently pursue cost recovery actions, and/or EPA may issue orders to Time Oil pursuant to available statutory authority.

ENFORCEMENT

40. Failure to comply with the terms of this Order may subject Time Oil to civil penalties of up to \$5,000 per day and/or punitive damages in an amount up to three times the amount of any costs incurred by the United States as a result of such failure, as provided in sections 106(b) and 107(c)(3) of CERCLA, 42 U.S.C. §§ 9606(b) and 9607(c)(3).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

OTHER CLAIMS

41. Nothing herein is contained to release any claims, causes of action or demands in law or equity against any person for any liability it may have arising out of handling, transportation, release, or disposal of any hazardous substances, hazardous wastes, pollutants, or containments found at, taken to, or taken from the Site.

42. This Consent Order does not constitute any decision on preauthorization of funds under section 111(a)(2) of CERCLA.

EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

43. The effective date of this Order is the date on which it is issued by the signature of the EPA official appended below.

44. This Order may be amended by mutual agreement of EPA and Time Oil. Agreed amendments shall be in writing and shall have as the effective date, that date on which such amendments are issued under the signature of the appropriate EPA official.

45. Any reports, plans, specifications, schedules, and attachments required by this Order are, upon approval by EPA, thereby incorporated verbatim into this Order. Any noncompliance with the provisions of such EPA approved reports, plans, specifications, schedules, and attachments shall be a failure to fulfill the requirements of this Order and subjects Time Oil to the provisions for penalties specified in paragraph 40.

46. No informal conduct by EPA (e.g. advice, guidance, suggestions, comments, draft rejections, etc.) concerning reports, plans, specifications, schedules, and any other writings to be submitted by Time Oil shall be construed as relieving Time Oil of the obligation to obtain such formal EPA approval as may be required by this Order.

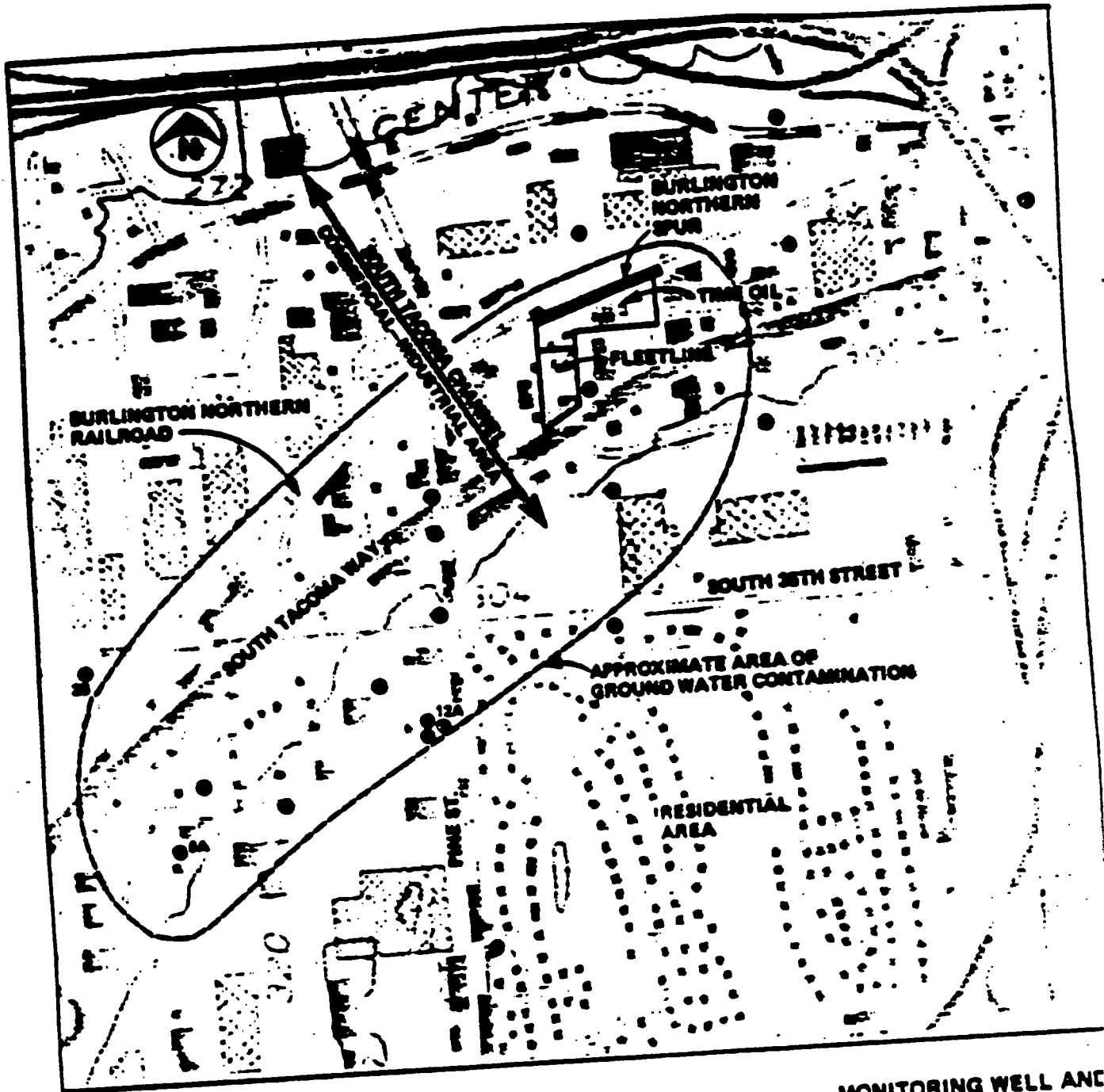
1 the Order is based, the appropriateness of the remedial actions being
2 required, and any other relevant and material issues or contentions they may
3 have regarding this Order. Time Oil may be represented by its attorneys at
4 such a conference. Any request for a conference must be directed to David M.
5 Heineck, Assistant Regional Counsel, EPA Region 10, 1200 Sixth Avenue,
6 Seattle, Washington 98101, telephone (206) 442-1498.

7
8 IT IS SO ORDERED, this 3rd day of June, 1985.

9 U.S. ENVIRONMENTAL PROTECTION AGENCY

10
11
12 By:

Charles E. Findley
13 CHARLES E. FINDLEY, Director
14 Hazardous Waste Division
15 U.S. Environmental Protection Agency
16 Region 10
17
18
19
20
21
22
23
24
25
26
27



EXPLANATION

- Monitoring Wells
 - City of Tacoma Wells
- Scale: 1 inch = 625 feet.

MONITORING WELL AND
CITY WELL LOCATIONS

South Tacoma Channel